

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

CRYSTAL VAUGHN,

Plaintiff,

v.

CLARENCE R. MCKEMIE, III, M.D.  
and THE HARBIN CLINIC, L.L.C.,

Defendants.

CIVIL ACTION

FILE NO: 4:14-cv-310-HLM

**COMPLAINT**

COMES NOW the Plaintiff, Crystal Vaughn, by and through her attorneys, and files her Complaint against Clarence R. McKemie, III, M.D. (“Dr. McKemie”) and The Harbin Clinic, L.L.C., and in support thereof would respectfully show the Court the following:

**NATURE OF THE CASE**

1.

Plaintiff Crystal Vaughn, a 31 year old woman, underwent a laparoscopic cholecystectomy for the removal of her gallbladder on January 28, 2013. During the surgery, Dr. McKemie negligently transected, cut or otherwise injured, the common hepatic/common bile duct of Plaintiff. The injury caused by Dr.

McKemie, described as a “Bismuth IV” injury to the common duct, required a repair surgery on March 15, 2013 known as a hepp-couinaud hepaticojunostomy. Plaintiff continued to suffer complications from her injury, and the repair ultimately was unsuccessful, resulting in Plaintiff having to undergo a second major surgery, a liver resection for segment 4 of Plaintiff’s liver and reconstruction of the biliary tract by performing a hepaticojunostomy with individual anastomoses on February 18, 2014.

### **THE PARTIES**

2.

The Plaintiff, Crystal Vaughn is an adult resident citizen of the State of Alabama, residing at 3088 Lakeview Circle, Southside, AL 35907.

3.

Defendant Clarence R. McKemie, III., M.D. is an adult resident citizen of the State of Georgia, residing at 1304 Kingston RD SE, Rome, GA 30161, where he may be served with process.

Dr. McKemie was at all times material hereto employed by, and/or is an owner or principal of, Defendant The Harbin Clinic, L.L.C., which is liable to Plaintiff under vicarious liability, *respondeat superior* and/or agency law for all negligent actions of Dr. McKemie. The Harbin Clinic, L.L.C. can be served with

process by and through its registered agent for service of process, Thomas Diehl, 1825 Martha Berry Boulevard, Rome, GA 30165.

At the time of the laparoscopic cholecystectomy for the removal of Plaintiff Crystal Vaughn's gallbladder on January 28, 2013 Dr. McKemie and The Harbin Clinic had a physician-patient relationship with Plaintiff Crystal Vaughn.

#### **JURISDICTION AND VENUE**

4.

The Plaintiff is a citizen of Alabama. Defendant Dr. McKemie is a citizen of Georgia. Defendant The Harbin Clinic, L.L.C. is a corporation incorporated under the laws of Georgia with its principal place of business in Georgia. Jurisdiction is therefore proper in this Court pursuant to 28 U.S.C. § 1332(a)(1). The amount in controversy, without interest and costs, exceeds the sum or value of \$75,000 specified by 28 U.S.C. § 1332(a).

5.

This Court has personal jurisdiction over all Defendants.

6.

Venue for this action is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (2).

## **FACTS**

7.

The removal of the gall bladder by laparoscopic means, known as laparoscopic cholecystectomy, is a common surgical procedure done hundreds of thousands of times per year in the United States.

8.

Plaintiff Crystal Vaughn underwent a laparoscopic cholecystectomy performed by Defendant Dr. McKemie on January 28, 2013.

9.

In his care of Crystal Vaughn , Defendant Dr. McKemie failed to exercise the skill, care and diligence as expected and required by reasonable and prudent members of his profession generally in like and similar circumstances.

10.

During said surgery, Defendant Dr. McKemie negligently cut and severed Plaintiff's common bile/common hepatic duct, or otherwise injured said duct during this procedure, damaging it beyond repair. The common bile duct is a vessel through which bile is delivered to the small intestine from the liver to aid in digestion. The injury caused by Defendant Dr. McKemie led to many problems for Plaintiff and required several procedures and two major repair surgeries. The type

of injuries caused by Defendant Dr. McKemie can cause life-long problems, including liver damage, which Plaintiff did suffer, and greatly increase the possibility Plaintiff may ultimately have to undergo a liver transplant.

11.

The injury to the common duct caused severe damage to Plaintiff Crystal Vaughn. Ms. Vaughn underwent a Hepp Couinaud /hepaticojejunostomy surgery by Dr. Juan Sarmiento at Emory Hospital to attempt to repair the damage done to her biliary tract, on March 15, 2013. That repair proved to be ultimately unsuccessful, and, after numerous procedures, examinations and much additional suffering, on February 18, 2014, Dr. Sarmiento had to perform a liver resection for segment 4 of Ms. Vaughn's liver, and again reconstructed the biliary tract by performing a hepaticojejunostomy with individual anastamoses.

### **ACTS OF NEGLIGENCE**

12.

In compliance with O.C.G.A. § 9-11-9.1, attached to this Complaint as Exhibit "A" and incorporated herein by reference in its entirety is the Affidavit of Michael Canning, M.D., attesting to some of the deviations from the standard of care provided to Plaintiff Crystal Vaughn by Defendants. Defendant Dr. McKemie failed to meet the required standard of care in his treatment of Plaintiff Crystal

Vaughn by his actions and omissions in the diagnosis, care and treatment of Ms. Vaughn as set forth herein and in the Affidavit of Dr. Canning.

13.

The standard of care for performing laparoscopic cholecystectomy on January 28, 2013 required meticulous dissection and clipping of certain biliary anatomy, and to be certain that the surgeon correctly identified the biliary anatomy such as the gallbladder, cystic duct, and cystic artery prior to any clipping or cutting of any structure.

14.

The standard of care requires that the surgeon be completely certain of the anatomy prior to clipping or cutting any structure.

15.

The standard of care requires requires the surgeon to assure he does not clip and/or cut the common hepatic /common bile duct.

16.

Dr. McKemie violated the standard of care by failing to conclusively identify the cystic duct and/or cutting a structure he had not correctly identified as the common hepatic /common bile duct. As a result of his failure to conclusively identify all the ductal structures he cut during the procedure, Dr. McKemie

violated the standard of care and caused an iatrogenic injury to Ms. Vaughan's common hepatic /common bile duct, resulting in Ms. Vaughn having to undergo the extensive repair surgeries outlined above and other procedures.

17.

As a result of Defendant Dr. McKemie's failure to comply with the standard of care, the Plaintiff has sustained severe mental and physical pain and suffering, medical bills, loss of enjoyment of life, and other damages that will be shown at the trial of this matter.

18.

Defendant Dr. McKemie's negligent actions as set forth herein were the proximate cause of the injuries sustained by Plaintiff Crystal Vaughn.

19.

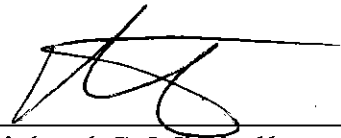
Defendant The Harbin Clinic, L.L.C. is liable to Plaintiff Crystal Vaughn for the negligence of its agent, employee and/or principal, Defendant Dr. McKemie, under *respondeat superior*, partnership law and/or agency law.

WHEREFORE, Plaintiff demands:

1. That this Complaint be filed and served as provided by law;

2. That she receive a judgment in excess of \$10,000.00, and in excess of the jurisdictional amount set forth in 28 U.S.C. § 1332(a), against the Defendants for her pain and suffering, emotional distress and special and general damages;
3. That all costs of this action be cast upon the Defendants; and
4. That Plaintiff receives such other and further relief as the Court deems just and proper.

Respectfully submitted this the 8<sup>th</sup> day of December, 2014.



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